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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/007,105

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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/007,105
Filing Date: December 04, 2001
Appellant(s): BANKS ET AL.

Alexander J. Burke
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/30/06 appealing from the Office action mailed 11/4/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Litzow et al., PG Pub 2003/0093414

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Litzow et al.

Litzow et al. shows, figure 3, a system and method for dynamic price setting (recalculating purchase pricing). There is a customer database 110, a vendor database 120 (catalog database) and a transaction database 130 (the examiner is considering all of these to a collective first database). There is a matching engine 150 and a means for entering incoming data (data processor or catalog data processor), which performs a systematic resolution of database records for predictive matching of consumers and offers. When an update approval has been achieved, the sale will be recorded in the transactional database (updating first database) There is an Xpensewise services module 110 (interface processor, bidirectional). Figure 4 shows a process at step 114 which, can determine inconsistent information and request more information (discrepancy received).

A claim map for claim 26 has been provided.

(10) Response to Argument

Claims 1-25 are argued from pages 9-26. The examiner asserts that there is a very small amount of positively recited subject matter in claims 1-25 on the basis of poor claim construction and the use of nonfunctional descriptive material. Notice claim 1 is an apparatus with massive use of "intended use" phrases. Claims 2 and 3 recite method steps and do not further limit the apparatus. Claim 4 has a similar construction to claim 1.

Claim 10 is a good example of the nonfunctional descriptive material. Modifying the intended use of the data processor receives specific types of product usage information with no recited use. (It should be noted that even though the limitations are not positively recited, the databases, "first database", in figure 3 of Litzow's invention do show module 100, a data processor, receiving this information. Module 300 could be considered an interface processor)

Nonfunctional descriptive material cannot render nonobvious an invention that would have otherwise been obvious. In *re Ngai*, 367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004). Cf. In *re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability).

Claim 26 is the only method claim and appears to have the most positively recited limitations. The examiner will rely on the claim map provided.

Claim 26

A method for processing product information for supporting commercial transactions, comprising the steps of:

maintaining, in a first database, product information including product description, vendor and associated product pricing information;

receiving product information from a remote application;

updating said first database information to incorporate received product information in response to detection of a difference between stored product information and said received product information;

automatically modifying at least one element of the updated product information in the first database according to predetermined rules, and

initiating display of at least one of updated and modified product information in response to user command.

Claim Map for 10/007,105

Figure 3, the examiner stated that he was considering relational databases of 110, 120 and 130 to be the "first database". DB 130 shows goods definitions, DB 120 is a vendor DB and includes offers (pricing)

Figure 1 shows information flowing to the relational databases from vendors 300 (remote application). The last sentence of paragraph 0087 shows that the definitions in DB 130 are dynamic.

Since the above definitions are dynamic, this step is just updating the relational databases of 110, 120 and 130.

Paragraphs 0087 and 0088 show that DB 120 and DB 130 are modified because of their relational connection. From 0087, examples of rules, Rule 1 - "While the Vendor Database 120 will contain the definitions of bundles of products, it will only do so as series of these definitions." Rule 2 - "The definitions of goods will not contain prices, but will define the salable unit."

My Trusted Bank Web Site 210 displays inputs from Xpensewise services 110, which includes the above relational databases of 110, 120 and 130.

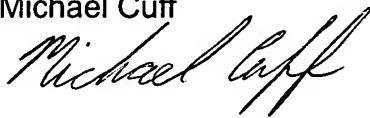
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Michael Cuff



Conferees:

Alexander Kalinowski



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